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JUN 17 1994

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

HENRY M. RIVERA  
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June 17, 1994

**HAND DELIVERED**

Mr. William Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: Ex Parte Notice -- MM Docket No. (92-259;) MM Docket No. 92-260; RM 8380; MM Docket No. 92-264; MM Docket No. 92-265; MM Docket No. 92-266; CS Docket No. 94-48; CC Docket No. 87-266; Application of N.Y. Telephone Co. for Video Dialtone (File No. W-P-C 6836)

Dear Mr. Caton:

In accordance with Section 1.1200 et. seq. of the Commission's rules, this is to advise that on Thursday, June 16, 1994, Edward Milstein, Chairman, and Peter Price, President, Liberty Cable Company, Inc., and Henry M. Rivera, Esq. and Jay S. Newman, Esq., Ginsburg, Feldman and Bress, Chartered, met with James Olson, Chief, Competition Division, Cable Services Bureau, and Amy Zoslov and Maura Cantrill of the Cable Services Bureau to discuss various issues in the above-captioned proceedings. The attachments to this Ex Parte Notice were used in that discussion. A total of nine copies of the attachment are herewith provided to you, one copy for each proceeding.

An original and one copy of this Ex Parte Notice were filed with the Commission and a copy was delivered to the above-named Commission personnel on June 17, 1994.

Sincerely,

*Henry M. Rivera*  
Henry M. Rivera

**Attachments**

cc: James Olson  
Amy Zoslov  
Maura Cantrill

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**JUN 17 1994**

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1250 Connecticut Avenue, NW  
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**June 16, 1994**

**LIBERTY CABLE COMPANY, INC.**  
**PARTICIPATION IN FCC PROCEEDINGS**

- **Amendment of Part 94 of the Commission's Rules to Permit Private Video Distribution Systems of Video Entertainment Access to the 18 GHz Band (PR Docket No. 90-5)**
- **Application of N.Y. Telephone Co. for Video Dialtone Service in NYC (File No. W-P-C 6836)**
- **Cable Must Carry/Retransmission Consent (MM Docket No. 92-259)**  
Comments filed 1/4/93
- **Cable Home Wiring (MM Docket No. 92-260)**  
Comments filed 12/1/92  
Reply Comments filed 12/15/92  
Petition for Reconsideration and Clarification filed 4/1/93
- **Cable Home Wiring (RM 8380)**  
Comments filed 12/21/93

**LIBERTY CABLE COMPANY, INC.**  
**PARTICIPATION IN FCC PROCEEDINGS**

**(Continued)**

- **Cable Cross Ownership, etc. (MM Docket No. 92-264)**  
Comments filed 2/9/93
  
- **Cable Programming Access (MM Docket No. 92-265)**  
Comments filed 1/25/93  
Reply Comments filed 2/16/93  
Opposition to Petitions for Reconsideration by Time  
Warner and Viacom International filed 7/14/93  
Comments on Petition for Partial Reconsideration by WCA  
filed 5/24/94
  
- **Cable Rate Regulation (MM Docket No. 92-266)**  
Comments filed 1/27/93  
Reply Comments filed 2/11/93  
Opposition to various Petitions for Reconsideration filed  
7/21/93

## **PROGRAM ACCESS**

- **COURT TV EXPERIENCE**

- \* Vertical Integration
- \* Satellite Delivered

- **FX (WCA PETITION)**

- \* Not offered in NY
- \* \$.25/Subscriber to Exclude Competitors That Have 2% or Less of Market

- **NY 1 EXPERIENCE**

- \* Vertical Integration
- \* Non-Satellite Delivered

- **CUNY EXPERIENCE**

- \* Complicity of Franchising Authorities

## **PROPOSED SOLUTION TO FX PROGRAM ACCESS ISSUE**

As requested in WCA's petition, the Commission should amend Section 76.1302(a) of its rules to specifically afford standing to file a complaint to any MVPD aggrieved by a violation of Section 616 of the Communications Act of 1934.

## **INSIDE WIRING ISSUE AND PROPOSED SOLUTION**

### **● ACCESS TO DEMARCATION POINT AND CONVENIENCE TO SUBSCRIBERS**

1. The demarcation point (i.e., starting point) for "home wiring" in multiple dwelling units (MDUs) (i.e., apartment buildings, condominiums and cooperatives) should be the point where an alternate provider can access individual wiring (wiring used solely to serve an individual subscriber) without physically damaging the MDU premises or interfering with the provision of cable service to other residents of the MDU.
  - The FCC, in its Report and Order, adopted a demarcation point for individual wiring in MDUs that is twelve inches from the point where the wiring enters the outside wall of a dwelling.
  - This demarcation point does not provide alternate providers with adequate access to individual wiring in many MDUs.
  - In many MDUs, individual wiring may be accessed only in a hallway, stairwell, basement or rooftop -- more than twelve inches from where the wiring enters a dwelling.
  - This is because individual wiring, for some distance prior to entering a dwelling, is often buried in a concrete hall floor, encased within an inaccessible conduit attached to the inner skeleton of the building or concealed behind expensive custom designed hallway mirrors or wall coverings.
2. "Home wiring" should include "splitters" so as to resolve the space constraints in conduits and connection boxes in many MDUs which prevent alternate providers from installing a second splitter.
  - The FCC, in its Report and Order, did not specifically state that "splitters" are part of "home wiring" as Liberty had requested.
  - "Splitters" must be part of "home wiring" so as to provide alternate providers with adequate access to the dwelling.
  - If there is no room in the conduit or connection box for two splitters, the alternate provider is prevented from accessing the dwelling.

## **PRICING ISSUES**

- **LIBERTY'S EXPERIENCE**

- \* Failure of State Franchising Authority to Act

- **BULK RATES**

- \* Not Cost Justified
- \* Selectively Applied
- \* "Under the Table" Additional Discount
  - Stuyvesant Town Example
  - New York AG's Investigation



## **PROPOSED PRICING SOLUTIONS**

- **FCC SHOULD CLARIFY THAT IT CAN ENFORCE THE UNIFORM RATE REQUIREMENT AT THE FEDERAL LEVEL**

\* "Accordingly, we [the FCC] will apply the uniform rate structure requirement to all franchise areas, whether or not the cable system is exempted from regulation by the "effective competition" provisions of Section 623(b)." Third Order on Reconsideration, MM Docket Nos. 92-266 and 92-262, released March 30, 1994 at ¶ 24.

- **FCC SHOULD CREATE A FEDERAL ENFORCEMENT MECHANISM TO ASSURE UNIFORMITY OF RATES**

## **VIDEO DIALTONE**

- **LIBERTY'S EXPERIENCE**
- **PETITIONS FOR RECONSIDERATION REQUIRE RESOLUTION**
- **EXPEDITED PROCESSING OF PENDING APPLICATIONS**
- **ASSURE THAT ULTIMATE REGULATORY SCHEME PROMOTES COMPETITION**